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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,901	10/17/2003	Youn Ho Nam	2080-3-181	1954

7590 08/14/2006  
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EXAMINER

CHEN, QING

ART UNIT PAPER NUMBER

2191

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/687,901	<b>Applicant(s)</b> NAM ET AL.	
	<b>Examiner</b> Qing Chen	<b>Art Unit</b> 2191	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is the initial Office action based on the application filed on October 17, 2003.

**Claims 1-7** are currently pending and have been considered below.

#### ***Oath/Declaration***

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- The application numbers of the two foreign applications, having filing dates before that of the application on which priority is claimed, are wrong. The correct application numbers should be 10-2002-64272 and 10-2002-64444, respectively.
- The filing date for the foreign application (10-2002-64444) is wrong. The correct filing date should be October 22, 2002.

#### ***Drawings***

3. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character not mentioned in the description:

- Element 140 in Figure 1.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application.

The drawings are objected to because the second Element S700 in Figure 7 is mislabeled. It should be changed to S730. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

4. The abstract of the disclosure is objected to because the abstract contains 16 lines of text and 153 words. The abstract should be in narrative form and generally limited to a single paragraph within the range of 50 to 150 words. The abstract should not exceed 15 lines of text. Abstracts exceeding 15 lines of text should be checked to see that it does not exceed 150 words in length, since the space provided for the abstract on the computer tape by the printer is limited. Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

- The specification contains the following typographical errors:
  - The application numbers of the two Korean patent applications on which priority is claimed should be changed to 10-2002-64272 and 10-2002-64444, respectively, in page 2, paragraph [0001].
  - The years of the filing dates of the two Korean patent applications on which priority is claimed should be changed to 2002 in page 1, paragraph [0001].
  - The word “Description” in the “Description of the Related Art” section heading is misspelled.
  - The element “home appliance” should be changed to “television receiver” in page 4, line 3, since the reference number 100 is already associated with a television receiver.
  - The word “than” should be changed to “that” in page 15, paragraph [0059].

- All instances of the term “related art” in the specification should be changed to “prior art,” since the art is already known and done in the past.

Appropriate correction is required.

### ***Claim Objections***

6. **Claims 4 and 6** are objected to because of the following informalities:

- **Claims 4 and 6** contain a typographical error: the limitation “the latest home appliance” should presumably be read “the home appliance” in the first limitations.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. **Claims 4 and 6** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 4 and 6** recite the limitations “the system software” and “the home network.”

There is insufficient antecedent basis for these limitations in the claims. In the interest of compact prosecution, the Examiner subsequently interprets these limitations as reading “a system software” and “a home network,” respectively, for the purpose of further examination.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1-3** are rejected under 35 U.S.C. 102(b) as being anticipated by **MacInnis (US 5,951,639)**.

As per **Claim 1**, **MacInnis** discloses a method of upgrading system software of a home appliance, comprising:

A. Reading a system software version of the home appliance to be upgraded among home appliances constituting a home network with a home server (*see Figure 2, Element 203; and Column 4, Lines 41-47*);

B. Reading a latest system software version corresponding to the home appliance from an appliance company server connected through the home server and Internet (*see Figure 3, Element 309; and Column 5, Lines 8-13*);

C. Comparing the system software version of the home appliance in the home network with the system software version of the corresponding home appliance in the appliance company server (*see Figure 4, Element 404; and Column 7, Lines 39-42*);

D. If the system software version of the corresponding home appliance in the appliance company server is newer than the system software version of the home appliance in the home network, downloading the system software of the corresponding home appliance from the appliance company server to the home server (*see Figure 4, Element 406; and Column 7, Lines 45-48*); and

E. Replacing the system software of the home appliance at home with the downloaded system software through the home network (*see Figure 4, Element 407; and Column 7, Lines 48-49*).

As per **Claim 2**, MacInnis discloses a method of upgrading system software of a home appliance **as in Claim 1 above**, and further discloses that the step of reading the system software version of the home appliance in the home network is periodically performed (*see Column 6, Lines 13-18*).

As per **Claim 3**, MacInnis discloses a method of upgrading system software of a home appliance **as in Claim 1 above**, and further discloses that the step of reading the system software version of the corresponding home appliance from the appliance company server is periodically performed through the Internet (*see Column 6, Lines 13-18*).



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11. **Claims 4-7** are rejected under 35 U.S.C. 102(b) as being anticipated by Fitzpatrick (US 2002/0012347).

As per **Claim 4**, Fitzpatrick discloses a method of upgrading system software of a home appliance, comprising:

A. Selecting a system software of the home appliance to be updated from a data broadcast which provides upgrade information of the system software of home appliances (*see Figure 9, Elements 404, 410, and 412; and Paragraph [0059]*);

B. Downloading the selected system software from an appliance company server to a home server through Internet (*see Figure 10, Element 422; and Paragraph [0059]*); and

C. Replacing the system software of the home appliance at home with the downloaded system software through a home network (*see Figure 10, Element 422; and Paragraph [0059]*).

As per **Claim 5**, Fitzpatrick discloses a method of upgrading system software of a home appliance **as in Claim 4 above**, and further discloses that the home server is a set top box connected to a digital television receiver (*see Paragraph [0026]*).

As per **Claim 6**, Fitzpatrick discloses a method of upgrading system software of a home appliance, comprising:

A. Transmitting a system software of the home appliance from an appliance company server to a broadcasting station through Internet (*see Figure 1, Elements 10, 20, 44, and 48; and Paragraphs [0024] and [0025]*);

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B. Propagating a broadcasting stream including the system software (*see Paragraph [0046]*);

C. Downloading the system software to a home server through a digital television receiver which receives the broadcasting stream (*see Figure 10, Element 422; and Paragraph [0059]*); and

D. Replacing the system software of the home appliance at home with the downloaded system software through a home network (*see Figure 10, Element 422; and Paragraph [0059]*).

As per **Claim 7**, Fitzpatrick discloses a method of upgrading system software of a home appliance **as in Claim 6 above**, and further discloses that the home server is a set top box connected to the digital television receiver (*see Paragraph [0026]*).

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A. **Metz et al.** (US 5,666,293) disclose a programmable set-top terminal, typically comprising a network interface module (NIM) and a digital entertainment terminal (DET), for use in digital video program distribution networks and to systems and methods for dynamically downloading operations system software to such a terminal.

B. **Stupek, Jr. et al.** (US 5,960,189) disclose a method for use in upgrading a resource of a computer from an existing version of the resource to a later version of the resource.

C. **Fletcher et al.** (US 6,009,274) disclose a method and apparatus for automatically updating and distributing executable files and components via a network in a distributed fashion.

D. **Criss et al.** (US 6,308,061) disclose a system and method in which software upgrades are provided wirelessly to mobile devices upon detecting that software currently in the mobile devices is outdated.

E. **Fries et al.** (US 6,425,125) disclose distributed client-server systems and methods for upgrading client software from an upgrade server.

F. **Kahn et al.** (US 6,525,775) disclose a method for updating software in the digital television receiver using recorded data provided by a digital video cassette recorder (VCR), digital versatile disk (DVD) player, laptop computer or other source of stored video signal.

G. **Arai et al.** (US 6,532,591) disclose a software download system in which a computer software product such as a computer program is downloaded with a broadcasting program from a

center station to each terminal through a communication satellite, a broadcasting satellite or a terrestrial television broadcasting service in a digital broadcasting.

H. **Imamatsu** (US 6,687,901) discloses a method and an apparatus in a radio terminal device in a mobile communication system in which a base station and radio terminal devices are connected mutually through radio communication channels.

I. **Del Sordo et al.** (US 6,718,374) disclose identifying and then downloading a specific version of a base platform code or other code object over the cable network that is appropriate to the architecture and capabilities of set-top terminal performing the download.

J. **Poli et al.** (US 6,904,611) disclose directing individual terminals or a group of terminals to acquire a new or upgraded programming object or list of objects over the cable television system.

K. **Leermakers** (US 6,928,468) discloses a communications system consisting of a server system that stores software applications, a broadcast system that broadcasts the software applications, and a multiplicity of portable clients that each include a receiver having a tuner that is selectively tunable to receive a selected one of the software applications broadcasted by the broadcast system.

L. **Prus et al.** (US 7,069,578) disclose a set top receiver and method including a software component and frequency acquisition method for updating set top receiver operating system software.

M. **Skaringer et al.** (US 2002/0107995) disclose a method and device for providing downloaded objects to an application, in particular to downloading information from a transport stream so as to provide on request data objects to an application.

N. **Choi et al.** (US 2002/0120885) disclose a method and apparatus for upgrading a software capable of upgrading a system software installed in an apparatus for receiving digital broadcasting.

O. **Lee et al.** (US 2002/0191637) disclose a method of upgrading the protocol stored in flash memory with a new version of the protocol in a network-able home appliance having a flash memory for storing the protocol and for communicating through a gateway connected to an external communication network.

P. **Cool et al.** (US 2004/0010786) disclose a mechanism for enabling software applications to be upgraded from a remote location without forcing an immediate termination or restart of the application.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Qing Chen whose telephone number is 571-270-1071. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 4:00 PM. The Examiner can also be reached on alternate Fridays.

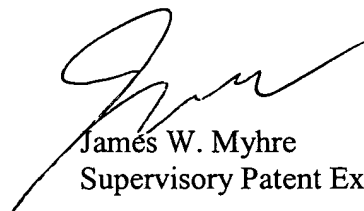
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, James W. Myhre, can be reached on 571-270-1065. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

QC / *QC*  
August 2, 2006



James W. Myhre  
Supervisory Patent Examiner